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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/517,465	03/02/2000	Max M. Maurer	PO9-99-094(12866)	4497

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EXAMINER

CRAIG, DWIN M

ART UNIT	PAPER NUMBER
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2123

DATE MAILED: 03/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/517,465

Applicant(s)

MAURER, MAX M.

Examiner

Dwin M Craig

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

1. Claims 1-9 have been presented for reexamination based on Applicant's amended claim language and arguments. Claims 10-16 have presented for Examination.

Response to Arguments

2. Applicant's arguments filed on 1-2-2004 have been fully considered. Examiners response is as follows:

2.1 Regarding Applicant's response concerning the use of the term *Split-Bridge*TM:

Applicant argued:

Claims 1-9 are amended to improve readability. Claim 1 is amended based on the specification, e.g., page 23, lines 4-18 and page 23, line 28 to page 24, line 9. Regarding bridging information in claims 1, 5, fi, 8 and 9, see the specification, e.g., page 24, lines 16-18. Claims 10-13 are new and are based on, e.g., the specification, page 22, lines 23 and 24. Claims 14-16 are new and are based on, e.g., the specification, page 19, lines 5-15.

Regarding paragraph 3 of the Office Action, Applicant's use of the term "split bridge" was not meant to refer to any trademarked product but merely indicates that the bridge has a dual functionality. For example, the specification, page 23, lines 4-18 refers to the two interfaces or the duality provided by a split bridge as defined by Applicant. In any event, the term has been modified to refer to a "bridge device".

Regarding paragraph 4 of the Office Action, this point should be moot in view of the amended claims.

Regarding paragraph 5 of the Office Action, and the rejection of claims 1-9 under 35 U.S.C. § 112, first paragraph, this point should be moot in view of the amended claims. In any event, Applicants do not concede to the propriety of the Examiner's assertions. Applicant is free to be his own lexicographer and to use the term "split bridge" in the sense described in the specification.

The Examiner wishes to thank the Applicant for clarifying the record through both arguments and amended claim language in regards to the use of the term *Split-Bridge*TM.

The Examiner has found Applicant's arguments and amended claim language to be persuasive

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and withdraws the objections to the specification as well as the 35 U.S.C. 112 rejections of Claims 1-9.

2.2 Regarding the Applicant's arguments concerning the 35 U.S.C. 103(a) rejections of Claims 1, 2 and 4-9:

Applicant argued:

The Dobbblestein approach is therefore rather different than the invention of claim 1, for example. Claim 1 sets forth a simulator that includes a bridge device and a frame generator. The frame generator is coupled to a first interface of the bridge device. The frame generator generates at least one simulated network frame from each of multiple virtual clients. This is in contrast to the Dobbblestein approach, where the same data from a client is merely copied to simulate multiple clients. Moreover, claim 1 sets forth that for each of the multiple virtual clients, a unique identifier combined with bridging information is associated with the at least one simulated network frame. Again, Dobbblestein fails to disclose or suggest this feature. In fact, Dobbblestein does not disclose or suggest the user of a bridge as claimed by Applicant. Instead, the client simulation of Dobbblestein is performed entirely at a workstation, and not at any bridge.

The Examiner asserts that the Applicants arguments in regards to the *Dobbblestein* reference are in piecemeal analysis and do not take into account that the second reference, the *Thalheimer et al.* reference was relied upon to teach the missing limitations that the Applicant is arguing.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

However, Applicant's arguments that the *Dobbblestein* reference does not teach *multiple virtual clients*, is persuasive.

Applicant argued:

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A bridge operates at the data link layer of a protocol stack. For example, this may be level 2 of the Open System Interconnection (OSI) protocol.

The Examiner asserts that the Applicant's arguments are persuasive in that neither the *Dobbelstein* or *Thalheimer et al.* reference, specifically discuss the simulation of bridging protocols at the data link layer.

In view of the deficiencies of the *Dobbelstein* or *Thalheimer et al.* references in regards to not disclosing a plurality of virtual clients and the lack of support for simulating at the lack of support for simulating at the Data Link Layer, the Examiner withdraws the earlier 35 U.S.C. 103 rejections of Claims 1-10.

Claim Rejections - 35 USC § 103

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. Claims 1, 2, and 4-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Dobbelstein U.S. Patent 5,881,269** in view of **Thalheimer et al. U. S. Patent 5,996,016** and in view of **Brockel et al. U.S. Patent 5,794,128**.

3.1 As regards independent **Claims 1, 4, 5, 7 and 8** the *Dobbelstein* reference discloses a network simulator inserting simulated network frames onto a physical medium (**Figure 2 ITEMS 40, 83 and 131 Col. 1 Lines 40-55, Col. 6 Lines 22-32**), a frame generator that generates simulated network frames according to a specific network protocol (**Col. 4 Lines 52-67, Col. 5 Lines 1-3**), multiple virtual clients (**Col. 7 Lines 27-32**), a unique identifier (**Figure 3 Items 55', 55'' and 55'''**, **Col. 7 Lines 53-67, Col. 8 Lines 1-9**), and multiple virtual clients (**Col. 7 Lines 26-32**).

However, the *Dobbelstein* reference does not expressly disclose a simulated bridge/router that partitions the network.

The *Thalheimer et al.* reference discloses routing simulated network frames based on a unique identifier combined with bridge routing information associated with said one or more simulated network frames (**Figures 4, Col. 5 Lines 33-61**).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have modified the *Dobbelstein* reference with the *Thalheimer et al.* reference because by adding the simulation of a bridge/router the simulation of the network more closely approximates that way a real network operates by adding the bridge/router functionality.

The *Dobbelstein* reference does not expressly disclose the simulation of bridging protocols at the data link layer and a plurality of virtual clients.

The *Brockel et al.* reference discloses the simulation of bridging protocols at the data link layer (**Figure 2-5, Col. 5 Lines 16-36, Col. 8 Lines 1-20**) and a plurality of virtual clients (**Figures 14 & 15, Col. 17 Lines 10-40**).

It would have been obvious, to one of ordinary skill in the art, to have combined the network simulation means of the *Dobelstein* reference with the link layer network simulation means of the *Brockel et al.* because by simulating wireless environments as well as other network environments the problems encountered in developing wireless networks can be solved using a simulator as opposed to the expense of fabricating real hardware and then performing field tests (**Col. 2 Lines 39-51**).

3.2 As regards dependent **Claim 2** the *Dobbelstein* reference does not expressly disclose a frame generator coupled to a bridge/router device.

The *Thalheimer et al.* reference discloses a frame generator coupled to a bridge/router device (**Figure 4, Col. 5 Lines 34-44**).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have modified the *Dobbelstein* reference with the *Thalheimer et al.* reference because by adding the simulation of a bridge/router the simulation of the network more closely approximates that way a real network operates by adding the bridge/router functionality.

3.3 As regards independent **Claim 4** the *Dobbelstein* reference does not expressly disclose a plurality of bridges.

The *Thalheimer et al.* reference discloses a plurality of bridges (**Figure 4 Item 52**).

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It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have modified the *Dobbelstein* reference with the *Thalheimer et al.* reference because by adding the simulation of a bridge/router the simulation of the network more closely approximates that way a real network operates by adding the bridge/router functionality.

3.4 As regards independent **Claim 5** the *Dobbelstein* reference does not expressly disclose configuring routing information.

The *Thalheimer et al.* reference discloses configuring routing information (**Figures 2 & 3**).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have modified the *Dobbelstein* reference with the *Thalheimer et al.* reference because by adding the simulation of a bridge/router the simulation of the network more closely approximates that way a real network operates by adding the bridge/router functionality.

3.5 As regards dependent **Claims 6 and 9** the *Dobbelstein* reference discloses receiving frames representing replies from a server designated for a plurality of client workstations (**Figures 2 & 3**).

3.6 As regards independent **Claims 7 & 8** see paragraph 6.1 above.

3.7 As regards dependent **Claims 10-16** the *Dobbelstein* reference does not expressly disclose the *Data Link Layer*.

The *Brockel et al.* reference discloses the simulation of bridging protocols at the data link layer (**Figure 2-5, Col. 5 Lines 16-36, Col. 8 Lines 1-20**).

It would have been obvious, to one of ordinary skill in the art, to have combined the network simulation means of the *Dobbelstein* reference with the link layer network simulation

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means of the *Brockel et al.* because by simulating wireless environments as well as other network environments the problems encountered in developing wireless networks can be solved using a simulator as opposed to the expense of fabricating real hardware and then performing field tests (**Col. 2 Lines 39-51**).

4. Dependent **Claim 3** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Dobbelstein U.S. Patent 5,881,269** in view of **Thalheimer et al. U. S. Patent 5,996,016** and in and in further view of **Brockel et al. U.S. Patent 5,794,128** and in further view of **Shmid et al. U.S. Patent 6,530,078**.

4.1 As regards independent **Claim 1** see paragraph 3.1 above.

4.2 As regards dependent **Claim 3** the *Dobbelstein* reference does not expressly disclose an Open System Adapter connection.

The *Shmid et al.* reference discloses an Open System Adapter connection (**Col. 9 Lines 30-47**).

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the *Dobbelstein* reference with *Shmid et al.* reference because, the *Shmid et al.* reference discloses a method to quickly migrate applications from any operating system to an OS/390 operating system (*Shmid et al. Col. 2 Lines 24-31*).

Conclusion

5. **Claims 1-16** have been rejected.

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5.1 Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

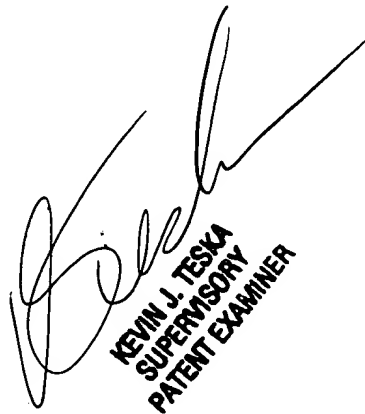
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dwain M Craig whose telephone number is 703 305-7150. The examiner can normally be reached on 10:00 - 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Teska can be reached on 703 305-9704. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DMC



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